

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #10	CCRB Case #: 202008044	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 11/21/2020 6:30 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 5/21/2022	Precinct: 67		
Date/Time CV Reported Sun, 11/22/2020 10:42 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/09/2020 10:58 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM David Meytin	24761	962616	067 PCT
2. POM Macaulay Maldarelli	05974	961905	067 PCT
3. POM Jesse Hard	23523	967102	067 PCT
4. POF Jennifer Acosta	26922	966923	067 PCT
5. POM Alex Chen	02428	965980	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM David Meytin	Abuse: Police Officer David Meytin entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B . POM Macaulay Maldarelli	Abuse: Police Officer Macaulay Maldarelli entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C . POM David Meytin	Force: Police Officer David Meytin used physical force against § 87(2)(b)	§ 87(2)(b)
D . POM Macaulay Maldarelli	Force: Police Officer Macaulay Maldarelli used physical force against § 87(2)(b)	§ 87(2)(b)
E . POF Jennifer Acosta	Abuse: Police Officer Jennifer Acosta entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
F . POM Alex Chen	Abuse: Police Officer Alex Chen entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
G . POM Jesse Hard	Abuse: Police Officer Jesse Hard entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
H . POM David Meytin	Discourtesy: Police Officer David Meytin spoke discourteously to § 87(2)(b)	§ 87(2)(b)
I . POM David Meytin	Abuse: Police Officer David Meytin threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On November 22, 2020, § 87(2)(b) called the Internal Affairs Bureau and filed this complaint. The CCRB received this complaint on December 9, 2020.

On November 21, 2020, at approximately 6:30 p.m., § 87(2)(b) was inside her apartment at § 87(2)(b) in Brooklyn. § 87(2)(b) daughter, § 87(2)(b) came to § 87(2)(b) apartment and asked to get her wallet. § 87(2)(b) called the police on § 87(2)(b) asking for an escort to enter § 87(2)(b) apartment. The following 67th Precinct officers responded in regard: Police Officer Jennifer Acosta, Police Officer Alex Chen, Police Officer Jesse Hard, Police Officer Macaulay Maldarelli, and Police Officer David Meytin. § 87(2)(b) told the officers that § 87(2)(b) did not live at the apartment and that she would not allow § 87(2)(b) into her apartment. After speaking with § 87(2)(b) for several minutes, PO Maldarelli and PO Meytin pushed § 87(2)(b) into her apartment and restrained her wrists while § 87(2)(b) entered the apartment (**Allegations A and B, Abuse of Authority: Entry of Premises, § 87(2)(g) Allegations C and D, Force: Physical Force, § 87(2)(g)** PO Acosta, PO Chen, and PO Hard then entered the apartment (**Allegations E, F, and G, Abuse of Authority: Entry of Premises, § 87(2)(g)** PO Meytin then allegedly told § 87(2)(b) “If you don’t shut the fuck up, I’m going to arrest you” (**Allegation H, Discourtesy: Word, § 87(2)(g) Allegation I, Abuse of Authority: Threat of Arrest, § 87(2)(g)**

No arrests or summonses resulted from this incident.

The investigation received body-worn camera (BWC) footage regarding this incident, the relevant aspects of which shall be discussed below (**BR 01-06**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer David Meytin entered § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Police Officer Macaulay Maldarelli entered § 87(2)(b) in Brooklyn.

Allegation (C) Force: Police Officer David Meytin used physical force against § 87(2)(b)

Allegation (D) Force: Police Officer Macaulay Maldarelli used physical force against § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Jennifer Acosta entered § 87(2)(b) in Brooklyn.

Allegation (F) Abuse of Authority: Police Officer Alex Chen entered § 87(2)(b) in Brooklyn.

Allegation (G) Abuse of Authority: Police Officer Jesse Hard entered § 87(2)(b) in Brooklyn.

It was undisputed that PO Acosta, PO Chen, PO Hard, PO Maldarelli, and PO Meytin entered § 87(2)(b) in Brooklyn.

In her CCRB interview (**BR 07**), § 87(2)(b) said that she was inside her apartment, § 87(2)(b) in Brooklyn, when her then-19-year-old daughter, § 87(2)(b) came to the apartment door. § 87(2)(b) asked for her wallet. § 87(2)(b) directed her nine-year-old daughter, § 87(2)(b) to go get § 87(2)(b) wallet from the master bedroom. § 87(2)(b) returned with a wallet near the window in the master bedroom with § 87(2)(b) ID inside of it and handed it to her. § 87(2)(b) said that it was not the wallet that she wanted but did not specify which wallet she wanted. § 87(2)(b) did not allow § 87(2)(b) to come into the apartment at any point. § 87(2)(b) called the police on § 87(2)(b) and told them that she lived in the apartment.

§ 87(2)(b) noted that she and her boyfriend, § 87(2)(b) both had Orders of Protection against § 87(2)(b) § 87(2)(b) Order was a limited Order and not a full stay away Order. Her boyfriend, who permanently resided at § 87(2)(b) and was not present for this incident, had a full stay away Order against her. She was not allowed to be in either

of their presence. § 87(2)(b) sent copies of these orders of protection (BR 08-09).

§ 87(2)(b) (BR 07) said that approximately six to seven officers knocked on § 87(2)(b) door. PO Maldarelli told § 87(2)(b) that § 87(2)(b) wanted some of her clothes from inside of the apartment. § 87(2)(b) said that she did not know whose clothes they belonged to. § 87(2)(b) said that when her 17-year-old daughter came home from work then she would have her get the belongings for § 87(2)(b). She asked § 87(2)(b) to fill up a laundry bag with clothing, she brought it to the door, and handed it to § 87(2)(b). § 87(2)(b) closed and locked her door.

§ 87(2)(b) said (BR 07) officers knocked on her door again. § 87(2)(b) opened the door again. The officers told her that she had to let § 87(2)(b) into the apartment. PO Maldarelli said § 87(2)(b) lived there because § 87(2)(b) just kicked § 87(2)(b) out a few hours ago. § 87(2)(b) told PO Maldarelli that she had an Order of Protection against § 87(2)(b) and that she could not be there. § 87(2)(b) began going through the laundry bag in the hallway outside of the apartment and dropping clothing on the floor outside of the apartment door. When § 87(2)(b) went to close the door, PO Maldarelli stuck his foot in the doorway of the apartment. He told § 87(2)(b) that § 87(2)(b) was giving the officers permission to enter § 87(2)(b) house. PO Maldarelli pushed the door open, grabbed § 87(2)(b) right wrist and squeezed it very tight. Another officer, PO Meytin, grabbed § 87(2)(b) left wrist. PO Maldarelli and PO Meytin forced § 87(2)(b) back onto a wall in her apartment. She tried to move her arms down so that the officers would get off her. PO Hard stood directly in front of § 87(2)(b) started yelling and screaming for the officers to get off her. § 87(2)(b) asked the officers if she was being detained or arrested. She asked them why they were in her home, holding her, and touching her. PO Maldarelli said that he was scared and that he did not know what § 87(2)(b) would do.

§ 87(2)(b) was not available to the investigation.

None of the officers activated their BWCs until they entered the apartment, and thus none of the pre-entry dialogue between § 87(2)(b) § 87(2)(b) and the officers is captured.

The one minute buffer period of PO Maldarelli's BWC captures this portion of the incident (BR 01) but without sound. Starting at the 00:00 timestamp, PO Maldarelli stands on the § 87(2)(b). There is a large pile of clothes outside the doorway of § 87(2)(b) § 87(2)(b). § 87(2)(b) stands with the officers. At 00:14, § 87(2)(b) knocks on the door of § 87(2)(b) § 87(2)(b). § 87(2)(b) opens the door. At 00:30, § 87(2)(b) tries to close the door but § 87(2)(b) kicks the clothing pile into the apartment. PO Meytin then approaches the apartment door, stopping between § 87(2)(b) and § 87(2)(b). At 00:45, PO Maldarelli walks into the apartment, places both of his hands on § 87(2)(b) upper torso and pushes her into the apartment. PO Maldarelli then grips § 87(2)(b) right arm with his left hand. At 01:00, when the audio begins, § 87(2)(b) says to PO Maldarelli, "Get off of me" multiple times. At 01:07, § 87(2)(b) says, "She § 87(2)(b) is not coming in my house! She don't live here! She don't! She don't live here! She don't live here!" PO Maldarelli then directs § 87(2)(b) to go get her wallet. PO Maldarelli continues to hold onto § 87(2)(b) right arm and PO Meytin grasps § 87(2)(b) left arm. The two continue to hold § 87(2)(b) arms until § 87(2)(b) leaves several minutes later.

In their CCRB interviews, none of the officers knew § 87(2)(b) by name, but she was identified by the investigation.

In his CCRB interview (BR 10), PO Maldarelli said that he was at § 87(2)(b) responding to another job when a black female teenager § 87(2)(b) walked up to him. At the time, PO Maldarelli was alone. § 87(2)(b) told PO Maldarelli that her mother, § 87(2)(b) was not allowing her to go into her apartment because her mother wanted her to get cat food and she did not. § 87(2)(b) was by herself. PO Maldarelli went to the sixth floor with § 87(2)(b) and was then joined by PO Meytin and PO Hard. PO Maldarelli and PO Meytin knocked on the door to the apartment and asked § 87(2)(b) if she could let § 87(2)(b) into the apartment. § 87(2)(b) did not tell the officers that she had an Order of Protection against § 87(2)(b) nor did she present any legal paperwork to the officers. § 87(2)(b) did not specify to

the officers that her boyfriend had an Order of Protection against § 87(2)(b) § 87(2)(b) said that she did not want § 87(2)(b) living there anymore and started throwing her clothes out of the apartment. After trying to negotiate with § 87(2)(b) for approximately five minutes, she was still acting belligerent and not allowing § 87(2)(b) into the apartment. The only thing that § 87(2)(b) wanted was her wallet and her belongings in the apartment. § 87(2)(b) did not want to cooperate with the officers, so PO Maldarelli and PO Meytin pushed their way into the apartment by moving the door back and walking inside. They entered her apartment in order to get § 87(2)(b) belongings from inside of the apartment. § 87(2)(b) gave the officers verbal permission to enter the apartment. PO Maldarelli did not recall if § 87(2)(b) told the officers that they could not come into the apartment. PO Maldarelli did not recall if § 87(2)(b) asked the officers to leave when they came inside. When they entered her apartment, § 87(2)(b) picked up her hands near her head in PO Maldarelli's direction, so PO Maldarelli grabbed onto her right wrist and held onto her wrist for his protection. PO Maldarelli did not want to get hit so he made sure that he had her hands during the interaction. PO Meytin grabbed § 87(2)(b) other wrist.

In his CCRB interview (**BR 11**), PO Meytin generally corroborated PO Maldarelli's statement. § 87(2)(b) was unable to show the officers her ID because it was in her wallet inside of the apartment. § 87(2)(b) just wanted to get her wallet from the apartment. § 87(2)(b) younger sister looked through the bedroom and said that she could not find the wallet. PO Meytin thought that § 87(2)(b) lived in the apartment due to the amount of clothes that were thrown out into the hallway, which he described as "a lifetime of clothing," and because she was a part of the family. PO Meytin also thought that § 87(2)(b) lived there because § 87(2)(b) would tell the younger sister to look in § 87(2)(b) room for her belongings and closed the door. When § 87(2)(b) next opened the door, she tried to shut it again on the officers. PO Meytin said that he and the officers needed to enter the apartment so that § 87(2)(b) could get her wallet; § 87(2)(b) could not do anything without her ID or money. PO Meytin put his foot into the doorway and told her that they were going to have the daughter go inside and get the wallet. PO Meytin said that was how they were going to solve it and then they would be on their way. PO Meytin, PO Maldarelli, and PO Hard fully stepped into the apartment. § 87(2)(b) became irate and screamed at the officers. She threw up her arms towards the officers' faces. PO Meytin and PO Maldarelli lightly held § 87(2)(b) wrists for their safety so that she did not throw her arms around. They held her wrists for her safety so that she did not swing at the officers or grab anything to throw at the officers. They held onto her wrists until officers the incident concluded.

In her CCRB interview (**BR 12**), PO Acosta also said that § 87(2)(b) needed an escort to retrieve her wallet. PO Acosta said that § 87(2)(b) did not want § 87(2)(b) to be at the apartment. When § 87(2)(b) went inside the apartment, she went straight to the back of her apartment, where there was a bedroom. PO Acosta followed behind § 87(2)(b) PO Acosta did not remember if the situation constituted an emergency. PO Acosta believed that § 87(2)(b) was subject to arrest for an illegal eviction given the pile of clothes and because § 87(2)(b) said that she lived at the apartment. The only reason PO Acosta went inside the apartment was to assist § 87(2)(b) in retrieving her wallet.

In his CCRB interview (**BR 13**), PO Chen said that he followed PO Maldarelli, PO Meytin, and § 87(2)(b) into the apartment after § 87(2)(b) verbally consented to officers entering the apartment. PO Chen did not remember if § 87(2)(b) allowed officers to come into the residence. PO Chen said that there was no emergency present when the officers went inside the apartment. PO Chen said that PO Maldarelli and PO Meytin told him that the situation comprised an illegal eviction.

In his CCRB interview (**BR 14**), PO Hard said that he did not have any interaction with § 87(2)(b) PO Hard did not remember if PO Maldarelli or PO Meytin told him anything about the situation and what was to be done. PO Hard understood that § 87(2)(b) was § 87(2)(b) daughter given what she was saying to the officers, but PO Hard did not remember the specifics of the conversation. PO Hard understood that § 87(2)(b) had been locked out of the apartment by

§ 87(2)(b) and that § 87(2)(b) was trying to get inside. PO Hard did not know any further specifics about the family dispute. PO Hard did not know if any crimes had been committed during this job. As the backing officer, PO Hard also walked into the apartment to protect the officers inside the apartment. PO Hard did not go into the apartment for any other reason.

The EVENT readout for the job that originated this incident reads as follows: “[female caller] need police escort to get belongings... [female caller] McDonald” (BR 15).

As prescribed in Georgia v. Randolph, 547 US 103 (BR 16), officers may enter and search an apartment if consent is provided, but officers cannot search an apartment where one occupant consents and a physically present co-occupant exists, absent some recognized hierarchy between the people living together, such as a household of a parent and a child.

As prescribed in People v Rodriguez, 77 A.D.3d 280 (BR 17), so long as the police have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property and so long as there is some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched, a warrantless police entry of a location is permissible.

While § 87(2)(b) may have consented to having officers enter the apartment (though there is no video corroboration of this), the investigation determined that PO Maldarelli and PO Meytin did not obtain consent from § 87(2)(b). § 87(2)(b) repeatedly told the officers that § 87(2)(b) did not live in her apartment and that § 87(2)(b) was not allowed in her apartment. Furthermore, § 87(2)(b) lacked the authority to provide consent to enter the apartment in the first place, as § 87(2)(b) did not live there (see **Allegation I**).

§ 87(2)(g)

§ 87(2)(g)

Per Patrol Guide Procedure 221-01 (BR 18), members of service must consider the following criteria regarding the reasonable use of force: the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject, and/or bystanders; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; number of subjects in comparison to the MOS; subject’s violent history, if known; presence of hostile crowd or agitators; subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

§ 87(2)(g)

Allegation (H) Discourtesy: Police Officer David Meytin spoke discourteously to § 87(2)(b)

Allegation (I) Abuse of Authority: Police Officer David Meytin threatened to arrest § 87(2)(b)

In her intake statement to IAB (BR 19), § 87(2)(b) said that while PO Meytin and PO Maldarelli held onto her arms, one of them said, “if you don’t shut the fuck up, I’m going to arrest you.”

In her CCRB interview (BR 07), § 87(2)(b) said that either PO Maldarelli or PO Meytin said that they were going to arrest her for disorderly conduct.

PO Maldarelli’s BWC (BR 01) captures this portion of the incident. At 04:00, § 87(2)(b) asks the officers to call their sergeant to the scene. PO Meytin responds, saying, “He is going to make us arrest you if we call our sergeant.” At no point does any officer use profanity while speaking with § 87(2)(b).

As noted above, PO Maldarelli and PO Meytin said that they believed that § 87(2)(b) had illegally evicted § 87(2)(b) and that, as such, she was subject to arrest (BR 10-11).

As noted above, § 87(2)(b) said during her CCRB interview (**BR 07**) that she and her boyfriend, § 87(2)(b) both had Orders of Protection against § 87(2)(b). § 87(2)(b) Order was a limited Order and not a full stay away Order. Her boyfriend, who permanently resided at § 87(2)(b) and was not present for this incident, had a full stay away Order against her. She was not allowed to be in either of their presence.

§ 87(2)(b) sent copies of these orders of protection (**BR 08-09**). Both were in effect on the date of the incident.

In his CCRB interview (**BR 10**), PO Maldarelli said that § 87(2)(b) told the officers that § 87(2)(b) did not live there but did not specify where § 87(2)(b) lived. The officers told her that she obviously lived there because she was her daughter. § 87(2)(b) said that she did live in the apartment. § 87(2)(b) said that she did not want § 87(2)(b) living there anymore and started throwing her clothes out of the apartment. § 87(2)(b) did not show the officers any form of ID that she lived in the apartment, but because § 87(2)(b) was throwing a large quantity of § 87(2)(b) clothing out of the apartment made them believe that § 87(2)(b) lived there. The officers also asked § 87(2)(b) about the cat food and she admitted that § 87(2)(b) could not come home until she got cat food which made them further believe that § 87(2)(b) lived in the apartment.

In his CCRB interview (**BR 11**), PO Meytin said that § 87(2)(b) told him that she lived at the apartment and that § 87(2)(b) had kicked her out. PO Meytin thought that § 87(2)(b) obviously lived in the apartment due to the amount of clothes that were thrown out into the hallway, which he described as “a lifetime of clothing,” and because she was a part of the family. He also thought that she lived there because § 87(2)(b) would tell the younger sister to look in § 87(2)(b) room for her belongings.

In her CCRB interview (**BR 12**), PO Acosta did not remember if she or other officers verified the § 87(2)(b) name. PO Acosta did not remember if § 87(2)(b) was an adult or minor. PO Acosta did not remember if § 87(2)(b) provided any identification to officers. PO Acosta did not remember if § 87(2)(b) said that she lived there. PO Acosta did not ever verify that § 87(2)(b) had lived at the apartment for more than thirty days. § 87(2)(b) did not say to PO Acosta that she lived there. PO Acosta did not remember anything that § 87(2)(b) said.

In his CCRB interview (**BR 13**), PO Chen said that he did not ever see any identification from § 87(2)(b). PO Chen did not know if § 87(2)(b) was a minor or an adult. No officer ever verified the identity of § 87(2)(b). PO Chen did not remember if anyone verified § 87(2)(b) residence.

In his CCRB interview (**BR 14**), PO Hard said that he did not know if any officers verified the identity of the daughter. PO Hard did not know if any officers verified that the daughter lived at the apartment.

PO Meytin prepared a domestic incident report regarding this incident (**BR 20**). While he did not note the name of either § 87(2)(b) or § 87(2)(b) he wrote that they lived together. PO Meytin did not collect any contact information from § 87(2)(b).

No officer prepared any summonses regarding illegal eviction during this incident.

Per the BWC, PO Meytin never says “if you don’t shut the fuck up, I’m going to arrest you.” § 87(2)(g)

As prescribed by New York City Administrative Code §26-521 (**BR 21**), it is unlawful for any person to evict an occupant of a dwelling unit who has lawfully occupied the dwelling unit for thirty consecutive days or longer (except in cases with warrants of eviction) by engaging in any conduct which prevents or is intended to prevent the occupant from the lawful of their dwelling unit or to induce the occupant to vacate the dwelling unit, including, for example, the removal of the occupant’s possessions from the dwelling unit.

Per Patrol Guide Procedure 214-12 (**BR 22**), when a uniformed member of service has probable cause to believe that a person has been unlawfully evicted from their dwelling unit, the member of service is to prepare a summons where the violator is properly identified, and the

occupant is permitted to reenter the dwelling.

§ 87(2)(b) told PO Meytin that she lived in the apartment. PO Meytin observed that § 87(2)(b) was related to § 87(2)(b) and that a pile of clothes was on the ground outside the apartment. § 87(2)(b) told officers repeatedly that § 87(2)(b) did not live there. § 87(2)(b) also provided the investigation with a copy of the full stay away order of protection that her boyfriend had against § 87(2)(b) at the time of the incident, supporting her statement that § 87(2)(b) did not live there. § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
- PO Acosta has been a member of service for two years and this is the first complaint to which she is a party.
- PO Chen has been a member of service for three years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Hard has been a member of service for two years and has been a subject in three CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- PO Maldarelli has been a member of service for five years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Meytin has been a member of service for five years and has been a subject in one CCRB complaint and two allegations, neither of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of March 17, 2021, the New York City Office of the Comptroller has no record of any Notices of filed regarding this incident (BR 24).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 10

Investigator: Ethan C. Waterman
Signature

Inv. Ethan Waterman
Print Title & Name

04/01/2022
Date

Squad Leader:	<u>Eric Rigie</u> Signature	<u>IM Eric Rigie</u> Print Title & Name	<u>1/25/2022</u> Date
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Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date
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